

HOUSE BILL NO. 395

INTRODUCED: 01/19/83

Referred to Committee on Education & Cultural Resources

01/19/83

Hearing: 1/28/83

Died in Committee

1 House BILL NO. 395  
 2 INTRODUCED BY J. Jensen - J. Hammond  
 3 Beam Marko  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE  
 5 TERMINATION PROVISIONS FOR TEACHERS; DECREASING THE  
 6 PROBATIONARY PERIOD REQUIRED BEFORE A TEACHER MAY BE OFFERED  
 7 TENURE WITH A SCHOOL DISTRICT; ELIMINATING MANDATORY  
 8 RETIREMENT PROVISIONS FOR TEACHERS; CLARIFYING THE REASONS  
 9 FOR WHICH TRUSTEES MAY TERMINATE THE SERVICES OF A TENURE  
 10 TEACHER; AND CLARIFYING THE GROUNDS ON WHICH A TEACHER MAY  
 11 APPEAL A TERMINATION DECISION TO THE COUNTY SUPERINTENDENT  
 12 OF SCHOOLS OR THE SUPERINTENDENT OF PUBLIC INSTRUCTION;  
 13 AMENDING SECTIONS 20-4-203 THROUGH 20-4-207, MCA."  
 14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 16 Section 1. Section 20-4-203, MCA, is amended to read:  
 17 "20-4-203. Teacher tenure. Whenever a teacher has been  
 18 elected by the offer and acceptance of a contract for the  
 19 fourth ~~second~~ consecutive year of employment by a district  
 20 in a position requiring teacher certification except as a  
 21 district superintendent or ~~specialist~~, the teacher shall be  
 22 deemed to be reelected from year to year thereafter as a  
 23 tenure teacher at the same ~~or greater~~ salary and in the same  
 24 or a comparable position of employment as that provided by  
 25 the last executed contract with such teachers unless:

1 ~~(1)~~ the trustees resolve by majority vote of their  
 2 membership to terminate the services of the teacher in  
 3 accordance with the provisions of 20-4-204; or  
 4 ~~(2) the teacher will attain the age of 65 years before~~  
 5 ~~the ensuing September 1 and the trustees have notified the~~  
 6 ~~teacher in writing by April 1 that his services will not be~~  
 7 ~~needed in the ensuing school fiscal year, except that the~~  
 8 ~~trustees may continue to employ such a teacher from year to~~  
 9 ~~year until the school fiscal year following his 70th~~  
 10 ~~birthdays."~~  
 11 Section 2. Section 20-4-204, MCA, is amended to read:  
 12 "20-4-204. Termination of tenure teacher services. (1)  
 13 ~~The trustees of a district may terminate the services of a~~  
 14 ~~tenure teacher under the provisions of 20-4-203 for one or~~  
 15 ~~more of the following reasons only:~~  
 16 ~~(a) unfitness;~~  
 17 ~~(b) incompetence;~~  
 18 ~~(c) violation of the adopted policies of such~~  
 19 ~~trustees; or~~  
 20 ~~(d) termination to reduce the number of teachers~~  
 21 ~~employed because the financial condition of the school~~  
 22 ~~requires such reduction and there are no teaching~~  
 23 ~~responsibilities being performed by a nontenure teacher that~~  
 24 ~~could be performed by the tenure teacher if so qualified.~~  
 25 ~~(2)~~ Whenever the trustees of any district resolve

1 to terminate the services of a tenure teacher under the  
 2 provisions of ~~20-4-203(1)~~ subsection (1), they shall, before  
 3 ~~April 1~~ May 1, notify such teacher of such termination in  
 4 writing by certified or registered letter or by personal  
 5 notification for which a signed receipt is returned. Such  
 6 notification shall include a printed copy of this section  
 7 for the teacher's information.

8 ~~(2)(3)~~ Any tenure teacher who receives a notice of  
 9 termination may request, in writing 10 days after the  
 10 receipt of such notice, a written statement declaring  
 11 clearly and explicitly the specific reason or reasons for  
 12 the termination of his services, and the trustees shall  
 13 supply such statement within 10 days after the request.

14 ~~(3)(3)~~ Within 10 days after the tenure teacher  
 15 receives the statement of reasons for termination, he may  
 16 request in writing a hearing before the trustees to  
 17 reconsider their termination action. When a hearing is  
 18 requested, the trustees shall conduct such a hearing and  
 19 reconsider their termination action within 10 days after the  
 20 receipt of the request for a hearing. If the trustees affirm  
 21 their decision to terminate the teacher's employment, the  
 22 tenure teacher may appeal their decision to the county  
 23 superintendent who may appoint a qualified attorney at law  
 24 as legal adviser who shall assist the superintendent in  
 25 preparing findings of fact and conclusions of law.

1 ~~(4)(5)~~ Subsequently, either the teacher or the  
 2 trustees may appeal to the superintendent of public  
 3 instruction under the provision for the appeal of  
 4 controversies in this title.

5 ~~(6) A tenure teacher may appeal the trustees' decision~~  
 6 ~~to the county superintendent as provided in subsection (4)~~  
 7 ~~or subsequently appeal to the superintendent of public~~  
 8 ~~instruction as provided in subsection (5) on the following~~  
 9 ~~grounds only:~~

10 ~~(a) that the trustees' decision was procured by~~  
 11 ~~corruption or fraud;~~

12 ~~(b) that the trustees' decision to terminate the~~  
 13 ~~services of the teacher was not supported by the evidence;~~  
 14 or

15 ~~(c) that the trustees were guilty of misconduct or~~  
 16 ~~committed gross error in refusing, on cause shown, to~~  
 17 ~~postpone the hearing or in refusing to hear pertinent~~  
 18 ~~evidence or otherwise acted improperly in a manner by which~~  
 19 ~~the teacher's rights were prejudiced."~~

20 Section 3. Section 20-4-205, MCA, is amended to read:

21 "20-4-205. Notification of tenure teacher reelection  
 22 -- acceptance. (1) The trustees shall provide written notice  
 23 by ~~April 1~~ May 1 to all tenure teachers who have been  
 24 reelected. Any tenure teacher who does not receive notice of  
 25 reelection or termination shall be automatically reelected

1 for the ensuing school fiscal year.

2 (2) Any tenure teacher who receives notification of  
3 his reelection for the ensuing school fiscal year shall  
4 provide the trustees with his written acceptance of the  
5 conditions of such reelection within 20 days after the  
6 receipt of the notice of reelection, and failure to so  
7 notify the trustees within 20 days shall constitute  
8 conclusive evidence of his nonacceptance of the tendered  
9 position."

10 Section 4. Section 20-4-206, MCA, is amended to read:

11 "20-4-206. Notification of nontenure teacher  
12 reelection -- acceptance ~~---termination-and-statement-of~~  
13 ~~reason.~~ (1) The trustees shall provide written notice by  
14 ~~April 15~~ May 1 to all nontenure teachers who have been  
15 reelected. Any nontenure teacher who does not receive notice  
16 of reelection or termination shall be automatically  
17 reelected for the ensuing school fiscal year.

18 (2) Any nontenure teacher who receives notification of  
19 his reelection for the ensuing school fiscal year shall  
20 provide the trustees with his written acceptance of the  
21 conditions of such reelection within 20 days after the  
22 receipt of the notice of reelection. Failure to so notify  
23 the trustees within 20 days may be considered nonacceptance  
24 of the tendered position.

25 ~~(3) --When the trustees notify a nontenure teacher of~~

1 ~~termination, the teacher may within 10 days after receipt of~~  
2 ~~such notice make written request of the trustees for a~~  
3 ~~statement in writing of the reasons for termination of~~  
4 ~~employment. Within 10 days after receipt of the request,~~  
5 ~~the trustees shall furnish such statement to the teacher.~~

6 ~~†††(3)~~ The provisions of this section shall not apply  
7 to cases in which a nontenure teacher is terminated when the  
8 financial condition of the school district requires a  
9 reduction in the number of teachers employed and the reason  
10 for the termination is to reduce the number of teachers  
11 employed."

12 Section 5. Section 20-4-207, MCA, is amended to read:

13 "20-4-207. Dismissal of teacher under contract. (1)  
14 The trustees of any district may dismiss a teacher before  
15 the expiration of his employment contract for ~~immorality,~~  
16 ~~unfitness,~~ incompetence, or violation of the adopted  
17 policies of such trustees.

18 (2) Any teacher who has been dismissed may in writing  
19 within 10 days appeal such dismissal to the county  
20 superintendent. Following such appeal a hearing shall be  
21 held within 10 days. If the county superintendent, after a  
22 hearing, determines that the dismissal by the trustees was  
23 made without good cause, he shall order the trustees to  
24 reinstate such teacher and to compensate such teacher at his  
25 contract amount for the time lost during the pending of the

- 1 appeal."
- 2 ~~NEW SECTION.~~ Section 6. Coordination instruction. If
- 3 ~~Bill~~ No. ~~724~~ [LC 725] is passed and approved, this act
- 4 is void.

-End-